

**AMESBURY PLANNING BOARD
CITY HALL AUDITORIUM- 62 FRIEND ST.
MONDAY, MARCH 10, 2014 @ 7:00 P.M.**

Meeting called to order at 7:04 P.M.

PRESENT: Howard Dalton, David Frick, Robert Laplante, Scott Mandeville, Ted Semesnyei, Karen Solstad, Lars Johannessen.

ABSENT: NONE.

ALSO PRESENT: Nipun Jain, City Planner, Paul Bibaud, Recording Secretary.

MINUTES:

7-8-13: *Howard Dalton motion to approve. Motion seconded by Scott Mandeville. Unanimous approval.*

12-9-13: Not ready yet. (David Frick)

1-27-14: *Motion by Ted Semesnyei to approve. Motion seconded by Karen Solstad. Unanimous approval.*

2-11-14: Not ready yet. (Lars Johannessen)

2-24-14: *Motion by Howard Dalton to approve. Motion seconded by Lars Johannessen. Unanimous approval. David Frick abstains (absent).*

FORM A APPLICATION:

#1365-14-2 110 AND 114 CONGRESS STREET, LOT LINE ADJUSTMENT (KING AND ARTHUR)

Jeff Hoffman, Northstar Land Surveying Services in Amesbury. I prepared the plan for the Kings and Mrs. Janet Arthur. They want to purchase a piece of land from Janet Arthur to add to their family lot under the R40 designation. No proposed changes to any frontages, just area. Janet Arthur is mother in law to the Kings. A common driveway services both lots. Both of these lots are existing conforming lots with 140 feet.

Nipun Jain: The two plans that you just saw are plans of record, not submitted with the application for ANR. What you have in these two plans of record is two existing lots, and noted as lot 4 on one of the plans of record, that lot is being modified to create lot 4C and also lot 3A where the common lot line between 3 + 4 is being moved to the new location. That is all that is being sought in this plan at this time. The access is not changing, frontage is not changing.

Motion by Howard Dalton to approve this Form A under subdivision control law not required. seconded by David Frick. All in favor.

SIGN APPLICATIONS:

CUMBERLAND FARMS – 132 ELM STREET (SMOLAK)

Lars and Scott had a chance to meet with the applicant last Thursday to go over these plans.

John Smolak, attorney for applicant Cumberland Farms. Since the board's last meeting, we've had a subcommittee meeting to discuss the proposed sign with respect to the site. The site's pre-existing non-conformity lot, use and structure. As a result of the subcommittee discussions, we made a couple adjustments on the plans that you have before you. One was the standing sign location, which was at the corner of Morrill and Elm. We included a proposed

planter, that would be a versa lock style. I just passed out a sheet showing this planter style and improvement to that corner. On the second page of the materials, I provided to you, there is the standing sign and slight modifications to the top of the sign, to add some additional color definition. We've included a green which matches the Cumberland Farms green on the store. On page three, we also added additional definition to the sign, which would be installed at the main entrance to the building. That sign now has curved definition, as opposed to square, as requested by the subcommittee.

Lars Johannessen: Re: the old sign, we wanted to eliminate some of the cement below it (2 ½ feet of cement), thereby covering it with 2 ½ feet of planter. No plantings listed, but that is the intent.

Nipun Jain: The discussion was having that landscape planter as well as plantings. There are plantings proposed. Re: signs: the planter was an additional request from the subcommittee, which has been added, to cover the existing concrete base. The only modification on the wall sign is the curvature along the top. That was incorporated. Landscaping changes that were requested include replacing day lilies in the landscape islands to change to azaleas or mountain laurels. Those have been modified on the site plan also. Also, where this shows one azalea, it needs to be two azaleas in every location. Otherwise, the applicant has done all that was requested.

Motion by Scott Mandeville to approve the sign as proposed. seconded by Lars Johannessen. All in favor.

SMART MART AUTO – 41 HILLSIDE AVENUE (DAABOUL)

Nipun Jain: This is being continued. The sign applicant has not been well, so they have not been able to come discuss it. So we will move it once more. Meeting will be scheduled for April 14.

Motion by David Frick to continue this to the April 14 meeting. seconded by Howard Dalton. All in favor.

CODE & CIRCUIT, WORK SPACE 36, PAUSE YOGA – 36 MAIN STREET

Nipun Jain: This is being continued to March 24. This is for the purpose of it being reviewed by the subcommittee so that we can have a standard recommendation to the Planning Board at the next meeting. I've met with the applicants and gone over the sign application packages.

Motion by Scott Mandeville to continue this sign application to the March 24 meeting. seconded by Lars Johannessen. All in favor.

PUBLIC HEARING:

SITE PLAN REVIEW AND 3 SPECIAL PERMITS, 39 AND 39A WATER STREET, 33 OAKLAND ST. (LOT B); REMOVAL OF EARTH MATERIALS, EARTH FILLING, WETLANDS AND FLOODPLAIN PROTECTION (NATIONAL GRID)

Nipun Jain: The applicant has requested that this hearing be continued to April 14 due to the Conservation Commission and it's consultant have not been able to submit a technical review report on this project, which is what the Planning Board is waiting for.

Motion by David Frick that this hearing be continued to April 14 due to the Conservation Commission and it's consultant have not been able to submit a technical review report on this project amended by Howard Dalton with the condition that two weeks before the meeting, all plans and requests for permits are filed with the planning office, so that we end up with a full

record by the time we get down here to work on it. David Frick accepts that amendment. Second by Howard Dalton. Vote was All in favor.

Nipun Jain: Mr. Chairman, as you move to continue public hearings, there is at least one public hearing that has been requested to be continued to April 14 as well: **19 and 19R Evans Place, definitive subdivision.** The applicant has not been able to complete the Conservation Commission technical review report, so the Planning Board cannot move forward without that report.

Motion by David Frick to continue this 19 and 19R Evans Place definitive subdivision public hearing to April 14. amended by Scott Mandeville providing all documents for this hearing be filed to the planning office two weeks prior to the hearing. David Frick accepts that amendment. Second by Scott Mandeville. Vote was All in favor.

LOWER MILLYARD HERITAGE PARK

Nipun Jain: At the last meeting the board had directed staff to draft up a decision on this matter for approval tonight. As I discussed with you, Mr. Chairman, this is a city project and at the time of the public hearing the board did not express any specific conditions to be put on this project, which is funded by state funding and grants, and will be completed per the design that was presented to you. So the staff has not prepared any special conditions for this project. If you wish to move forward on this, then simply take a vote, it's a site plan review and make a motion to approve the project as presented, and that would be the decision of the board.

Motion by Robert Laplante to approve Phase 1 Heritage Park. seconded by Howard Dalton. David Frick abstains as he was not present. All others vote to approve.

Motion by Howard Dalton to close the public hearing. seconded by Lars Johannessen. Vote was All in favor.

SITE PLAN / SPECIAL PERMIT 241 MAIN STREET, CUMBERLAND FARMS

Nipun Jain: At the last meeting, a substantial amount of time was spent on the traffic issues. The board's consultant was here to speak on the initial findings and the applicant responded to some of the issues raised in the initial traffic review. Subsequent to that, the applicant was requested to provide additional information which was received last week by Friday and was sent to the traffic consultant of the board. You should have the applicants information on that in your packets. The board's consultant has reviewed that information, and is present here tonight to report their findings on the supplemental information. That's an important aspect of the project that the applicant wishes to discuss with the board, then move onto other aspects that were discussed by the applicant with the subcommittee on Thursday, with regards to landscape plan, lighting, and where they stand on some of the building design related and signage issues. Scott Mandeville and Lars Johannessen were on the subcommittee that met with the applicant. Jeff from Vanasse and Associates is here and ready to speak to the Planning Board re: traffic, since it has been a significant issue of this project.

Jeffrey Dierk, principal with Vanasse and Associates, and we're the city's traffic consultant on this project. We had a chance to go over the materials before you. What we've done is issue a draft letter, putting together some of our thoughts on the initial thoughts on materials provided to the Planning Board. The first thing that we worked with the applicant on was dealing with the technical aspects of the traffic study. We want to make sure we have the traffic numbers correct, so we can get the analysis of the intersection done so that we can look at queuing, delays, and

other aspects of the project. Once that is all in hand and we make sure it meets industry standards, then we can focus on the site plan so the site functions in an appropriate manner on the site, regarding access and circulation. The first review dealt with those specific elements of the traffic study itself. We'd asked them to focus in on what was going on for motor vehicle crashes at the intersection. We asked for that to make sure that as we looked for hot spots for crashes, or if there were any, that those hot spots get addressed as part of the re-design of the site itself, primarily looking at crashes related to the driveways. The city crash data doesn't identify any hot spots re: crash data relating to driveways or related to specific approaches into the intersection.

The crashes seem to be related purely to volume of traffic in that intersection. Most are rear end collisions found mostly at signalized intersections. The data shows it is not related to the driveways, just to the sheer volume of cars going through that intersection. The next thing we asked them to do some work on was the trip generation calculations for the project. The key thing we wanted to understand is, what is the net increase in traffic? We asked them to go back, look at those traffic numbers, and approach it from a different type of methodology to come up with the net increase in traffic. They did do that. We'd suggested a couple of approaches for them to use in doing that. They selected an approach. We are in agreement with it. Basically they said the total volume of traffic that the site will experience in terms of a net increase, and I'm not going to deal with the fact that a lot of the traffic will be on the roadway network already. We're concerned now as we look at the site, how much new traffic will be coming into the site. We want to know just the total net new traffic that is expected that will circulate on the property. They've come back and suggested that the net increase in traffic that the site will experience will be about 100 additional vehicles over the course of an hour, and that is two-way traffic. So the net increase that the site is going to have to process internally that deals with fuel pumps and the parking spaces, they expect to need to handle an additional 100 vehicles in the course of an hour on the site (50 in/50 out).

That is the increase in intensity the internal site will experience. Driveways and internal circulation are the areas that still need to be addressed. So we're satisfied with that net increase. They revised their analysis of the intersection and of the driveways. The analysis of the off site impacts has addressed our initial comments, so we are satisfied with all that. Our comments have been addressed to date. The key thing regarding offsite that needs to be done is that the traffic signal needs improvements, and they have an agreement with the state, replacing the signal equipment / controller, the computer that controls the intersection, then re-timing the intersection. That will need to be done prior to occupancy of the site. What we suggested and is common when you have locations close to intersections under signal control, you want to have what we call a look back provision. You want to address actual impacts, then address them. The way we've suggested to do this and the applicant agreed is that, within 6 months after the site is constructed and operational, they need to go back out, do traffic counts at driveways and at the signal, check in against what they predicted, then if they exceeded the volumes or if traffic patterns changed, then they need to look at the signal again and suggest timing changes that could be made there to adjust the signal to reflect the actual realized traffic, then implement those changes.

With that, they should be able to mitigate the additional traffic created by the project.

Ted Semesnyei: At what point can you mitigate the traffic? Is there a point when it is just too much?

Jeffery Dierk: For this type of use, the majority of this traffic is pass by traffic. The main concern in mitigating the impacts is that traffic patterns will change as a result in increased traffic demands, but also because of the way the driveways are located, traffic patterns at the intersections will change because of the way that people are going to use the redeveloped site. The net increase in traffic on the roadways is not going to be significant, because it is a trip of convenience.

Lars Johannessen: Re: the extra 100 trips per hour, how much of an increase is that from before?

Jeffery Dierk: Today, there may be 170-180 during peak traffic periods, so it will add about 100 trips on top of that, so we're talking somewhere like 30-40% increase in traffic at the site. But again, that is where it focuses on the internal circulation within the site, the parking supply in making sure the site itself physically can absorb that additional traffic. If we're satisfied that in terms of the off site, that they can address the impacts relating to that with mitigation we've discussed, now the site has to physically draw that traffic in so that it is not backing out into the public way, and process it internally.; That is the next step, once we're comfortable with what they are assessing in net impact, increase in traffic, they can mitigate offsite, now we have to make sure the site can physically absorb that traffic. That is the next part, once we are past the onsite circulation. The subcommittee was very interested in the site circulation plans that you had received. Those circulation plans and the turning maneuvers that you see on there drive a lot of how the site will be designed. We needed to receive that information so we could see how these vehicles will actually going to be able to circulate onsite. As a result of seeing that, there are some additional comments that we will have relative to the site plan itself that we'd suggest the applicant consider to free up some maneuvering area within the site. As we looked at it, within the confines of the site itself, the site can function, but it would need to function in somewhat of a perfect type of situation. There is not a lot of free room for circulation. Some comments that we have are going to be that we need to free up some more space internal to the site, relative to just the circulation of vehicles. That's not even dealing with deliveries, which pose a second set of comments we have on the site plan itself. The board initially inquired about changing the plans for pumps to an angled placement vs. the four in line pumps being planned. This idea creates more problems than leaving them four in a row as planned. The applicant may need to go back and look at various options for angling the parking spaces in front of the store, to allow less maneuvering necessary to back out and leave. As the plans stand today, those spaces back straight out and are very close to the gas pumps and vehicles fueling. More space needs to be found.

(a lengthy discussion took place debating various customer vehicle scenarios and the problems in circulation, maneuverability issues and the self limiting scenarios due to the size / shape of vehicles).

Karen Solstad: The sidewalk in front of the building is the only safe way for pedestrians to be on the site. You're talking about shrinking the sidewalk by the front door down 2 to 3 feet to gain more space to allow vehicles easier turning radii to drive out. If anything has to be taken away from anything, I'd rather see it taken away from the size of the building rather than from the one safe space for pedestrians.

Jeffery Dierk: I think that is information the applicant has to hear from the board. We're saying you need to free up more space. You need to figure out how to achieve that with the site plan.

Ted Semesnyei: So at this point, you are waiting for more information back from the applicant?

Jeffery Dierk: Correct. In fact, the applicant is hearing this for the first time tonight. The other circulation issue has to do with delivery vehicles. On page one, we show a fuel delivery tanker going into the site. The fuel tanks are located underneath spaces 3 through 6. The expectation is that tankers will enter the site from Route 110, making a left hand turn from Haverhill Road into the site, drop the fuel and this is typically on the passenger side, although they can request trucks that drop from the driver's side. If you imagine the truck dropping from the passenger side, you can't run hoses underneath the trucks, so it has to be positioned correctly. The truck circulates through the site and we're comfortable that the truck can drive through there. The areas that we are asking them to provide more information on have to do with, when the truck is physically within the site, where is it going to be positioned? Which parking spaces would be taken out of service? Obviously, 3 through 6 will be, because you can't have a vehicle parked there when they are dropping fuel. The other question gets back to the distance between the fuel pumps and where the parking spaces are. Chances are, depending on tanker truck positioning, spaces 1 through 6 will be taken out of use, as well as possibly a fueling pump or more. We need to know where that tanker will be, so we can judge the impact on the rest of the site. Off peak hour delivery is fine, but if the board said it was acceptable for those spaces to come out of service during that time period, we need to understand how it impacts the fuel pump on the end, as well. Does that pump come out of service, because people can't use it during that time period? Also, we need to know tanker positioning to factor impact for the Main Street driveway. Now we go to the other vehicle seen in the plan, which is the box truck they show on here. Unlike tanker trucks, they may be able to schedule those deliveries to off peak hours, I'm not sure. The applicant can answer that if it is possible. We need to understand where that vehicle will be on the site. Will it impact parking spaces such as 2-3-4? How would that be managed for when a delivery is happening? Should a loading zone be marked on the site so vehicles know where to go within the site? We need to know times of days also. Can you control delivery times? If not, where onsite do those delivery trucks go? There is enough room for maneuvering if a delivery area was made over where the dumpsters are. The key is to keep the space open during the times deliveries are expected to happen. So we're talking creating more space within the site and also how deliveries will be made on the site.

Ted Semesnyei: Thank you very much. We need the applicant to come up to discuss how these concerns can be addressed.

Heather Monticup with Greenman- Peterson, traffic engineers for Cumberland Farms. As Jeff said, we are just hearing about this stuff now. So as far as providing more space between the pumps, sidewalk, and the building, we'll have to investigate and get back to you. I want to speak about these plans. Jeff is requesting showing where the tankers trucks are going to sit, that's no problem. We've modified these plans to show exactly where the tanker has to sit. It offloads on the passenger side. This example shows a boat trailer coming in. We show that even with a trailer, it can maneuver. But if every pump is used, I doubt someone will pull in and wait. So this plan shows it can be done, from either driveway. We show both conservative and tougher movement scenarios. Other plans I've distributed shown of other pages show various passenger vehicles entering from various driveways and directions, to illustrate how they all work. Pages 6 and 7 were requested at the subcommittee meeting, so Jeff didn't get them, they just missed the package. To date, we prepared a traffic study, VAI reviewed that study, gave us a letter on Feb. 20. On Feb. 20, we had a meeting with VAI which allowed us to prepare a response to comments memo that was dated Feb. 27. We got an e-mail on March 4 from VAI asking for additional turning movement plans, delivered to you on Friday. We've submitted the plans to both police

and fire departments. The police dept. says they don't see anything at this time which would create additional problems. We're waiting for fire dept. approval. So we're awaiting VAI's letter. One last thing, we received from Cumberland Farms that there is a concern about what is going to happen during delivery periods. There is an unloading procedure that Cumberland Farms has that all their delivery people adhere to. One thing this says is that to set up traffic cones as a warning to motorists to prevent them from entering the truck pad area and for any backing maneuver that might be required, for safety purposes. We can clarify the protocol for setting up cones, etc. to alleviate concerns the board may have.

John Smolak, attorney for the applicant: We'll have to get back to you as to what those off peak hours might be.

Nipun Jain: Quickly, to summarize what we've done so far: storm water and engineering aspects are being reviewed by BSC. The landscaping design and buffers to the site were reviewed by subcommittee. It appears that so far, the proposal is appropriate to the site. Some suggestions were made and they are looking into incorporating them into the final site plan. There were discussions about lighting and signage. Suggestions were made to revise the site plan and details regarding those two performance standards, and they are also being looked into by the applicant. Building design will be discussed at the next subcommittee meeting more in detail. Hopefully the architect can be there to present the building design. We've tentatively scheduled a subcommittee meeting for next Thursday to go over revisions to lighting and signage, and to discuss building design. The applicant wishes to come back to the March 24 meeting. We can continue this hearing accordingly.

Motion by David Frick to continue this hearing to March 24, with the applicant agreeing to get documentation back to the Planning Board by March 17, with the subcommittee to meet again on March 13. seconded by Lars Johannessen. Vote was All in favor.

MUNICIPAL COUNCIL REFERRAL 2014-003 MEDICAL MARIJUANA OVERLAY DISTRICT

Nipun Jain, City Planner: Tonight we are discussing the continued public hearing for 2014-003, as well as municipal council referral 2013-131. moratorium on marijuana cultivation. The moratorium was being assessed what sort of regulations would be appropriate for managing medical marijuana for us in Amesbury. At the same time, there was a request from city council to create an overlay district for medical marijuana in certain areas of the city. As a consequence of that discussion, there were several viewpoints, goals, objectives by individuals on the board as well as from the council expressed. The staff met with each individual to understand concerns people had, and how can we go about creating a framework that is consistent with goals and objectives of the Planning Board and council. We got a clearer idea of those goals and we were able to create and discuss a framework at the Planning Board subcommittee meeting last Tuesday, March 4. As a result, I was able to draft a set of regulations that take into account all objectives the Planning Board sought to achieve. I'm passing out two handouts: one is an overview of what we're doing here, why we are here as it relates to medical marijuana and how it is allowed, how it pertains to land use policy, and what discussions took place with the Planning Board with regards to proposed zoning as well as potential amendments to the proposed zoning. Medical marijuana has been made legal in Massachusetts by the Act of 2012, Chapter 369 laws, which allows humanitarian use of marijuana. The Dept of Public health then adopted a set of regulations which became final on May 24, 2013 also known as 105CMR 725. Those regulations, procedures and enforcement aspects of how medical marijuana dispensaries would

be sited in Massachusetts in the first round. DPH intends to approve up to 35 RMDs statewide. We are looking at creating a set of land use policies or regulations that would work in concert with those state regulations, but at the same time, focusing on land use planning aspects that relate to proper planning in Amesbury, such as the district in which the property is located, the compatibility with adjacent uses, transportation criteria, parking, and compatibility in terms of design with neighboring structures. Given the limited number of these facilities allowed in Ma. to start with, these will serve as regional facilities, therefore access to these facilities is critical in their proper functioning and operation. Therefore their location needs to have reasonable access from regional roadways and not have to go through tight neighborhoods in any location. The proposal that was presented to the Planning Board for review was such that it separated the dispensary (meaning the dispensing of medical marijuana and the cultivation and processing of medical marijuana). The proposal was to regulate just the dispensing part of medical marijuana in Amesbury via special permit in the industrial and light industrial areas or zoning districts. The Planning Board felt that cultivation and processing is also a use that needs to have regulations for two reasons: 1. The state regulations do not necessarily differentiate between those activities. They treat the dispensary as one. It can have dispensing, cultivation and processing on one site. So its regulations are geared to see that as one activity. If we are to separate those, it creates conflicts, which is against the purpose of why we are setting up these land use policies. 2. There are security issues and other aspects of cultivation and processing sites which could expand year after year and possibly have accessory retail services to it. There were aspects of it that need to be regulated and have oversight, therefore, it may have a tiered approach, as proposed by the Planning Board members as well. More restricted for the perceived high risk of dispensaries, medium risk for cultivation and processing, and low risk for just cultivation. The second set of hand out is actually the proposed zoning amendment itself, and you will see that the amendments being proposed are in three parts: 1. defining what is a district medical marijuana dispensary, 2. to add to the list of table of use regulations for district medical marijuana dispensaries, 3. the actual zoning regulation itself. The definition as proposed originally is being amended to reflect exactly how it is currently in the DPH regulations, so 1. There is consistency between state and local regulations. 2. The table of use regulations will be amended to include medical marijuana as a use allowed by special permit, if it is a dispensing site in the industrial / light industrial areas. If it is only a cultivation and processing site, then it will be allowed by site plan review. However, if they seek accessory retail sales at that cultivation and processing site, then they will require a special permit, because it gets to that level where public interaction is involved. An important aspect that I didn't realize is that home deliveries will be allowed. So there will be more traffic potentially than just customers or clients coming to the dispensary. There are home deliveries also. One other thing that is not here, but as I review the draft is, agriculture as it currently is listed in the table of use regulations is not clear about whether cultivation of marijuana is agricultural, so we are going to recommend that it be specifically excluded with the growing of marijuana under the agriculture use be specifically not allowed, so that it is clear that when you are talking about agriculture, we're talking about other crops for consumption by anyone and everyone. Now, the whole body of the actual medical marijuana overlay district has a purpose section, a definition section, then comes the allowed uses, prohibited uses, eligibility, application requirements, design and performance standards, special permit criteria, conditions of approval. That is the basic framework that has been followed. I did not do a comparison on what was proposed vs. what the amendment should be, but this is a clean copy of what amendment should go to city council.

Without going into each one of those, the purpose of the purpose section was, as recommended by the legal community is, it is to demonstrate that there are aspects of the policy that we need to assess, and which is the basis of any performance standards or requirements or criteria. So you can see, the premise is yes it has been allowed by state regulations, yes the state regulations do not prohibit local regulations to be adopted for the public health and welfare, and the fact that there are instances in other jurisdictions where the use of marijuana has some concerns re: enforcement. Then finally, that these uses may have adverse impacts and therefore, the purpose of these regulations are to reduce or minimize these impacts as it relates to residential neighborhoods, schools, playgrounds, and other locations. Finally, that it be readily monitored. We wanted to have those sites and projects that can easily be monitored by law enforcement for health and public safety purposes.

Establishment: yes, we agreed that the overlay district be established in the proposed industrial / light industrial districts. Light industrial is probably not the best location, as the Planning Board view it closer to residential areas more so than industrial areas. It needs good access from Route 95. We need to check as to how close it is to the elementary school. The definition section was another key area that wasn't very well laid out in the proposed zoning. They had proposed just saying that all the terms herein would be referred to as "are referred in the state statute". I think it is important to state what are the governing state statutes, so we listed that. Who is the applicant? What do we mean by applicant? Who is the business agent? There will be so many different people involved in this that we really need to identify who will be responsible for what, and therefore we added all of those terms. Cultivation site: in this particular definition, we are stating what a cultivation site will mean, and what would be allowed at a cultivation site. It will say that no portion of the facility be mobile, that it be a fixed, permanent building, with no onsite retail or offsite deliveries from this location because it is just a cultivation and processing site. Then they go into deep dispensing location of that RMD. So for state regulation purposes, there is only one RMD. They might have two locations, one cultivation / processing and the other dispensing. Or all three at the same location. So if you are going to buy medical marijuana, you have to go to a dispensing agent, show a registration card, and then you can get it. The point of prohibiting these vending machines, self service display that there be actual verification of who is getting or buying medical marijuana. That brings us to the next section: what are the allowed uses? The allowed uses are that you would be able to do an RMD as defined, which includes dispensing in the medical marijuana overlay district, upon the grant of a special permit and site plan approval, or an RMD that has been deemed in the district only as a cultivation site shall be allowed by site plan approval, by the Planning Board, subject to the requirements of this section. Prohibited uses include those three specific uses.

Scott Mandeville: Nipun, you had mentioned a tiered approach to review and oversight in these facilities, lower for just cultivation and higher for cultivation and sale. What would happen, with what we've got laid out here, say if a cultivation site established itself in the near future, then the state issued additional licenses and they wanted to move to also doing special permit dispensing, so then they'd be subject to coming back for a special permit to change their classification?

Nipun Jain: Yes. And that was one thing that we struggled when the council was saying "you don't need to regulate that," but we said "no, what if there is already an existing cultivation, you want then to be not grandfathered, and this particular proposal actually helps you achieve that objective. Another critical aspect of the state statute was the location of these facilities being limited to, at least by state regulations, a proposed 500 feet, and that is what the local ordinance also proposes and what has been maintained here. The question was, how it is measured in

specific or case by case location now? I've also done is identified protected uses. The protected uses are facilities where children or minors congregate. That is a key fundamental aspect of where these facilities are located. These so called protected uses include schools, child care facilities, playgrounds, library...basically anywhere where minors / children / youth congregate, as long as it is a structured activity. That distance can further be modified up to 25%...so it can be reduced by up to 25% provided two conditions are met: 1.If it wasn't allowed, then the RMD would be effectively prohibited in the municipality. That is a way of restricting a situation. 2. It is both that the applicant has entered into an agreement to demonstrate that the RMD will employ stringent security measures to prevent a version of medical marijuana to minors and others. So there would be an agreement between law enforcement or officials at the local level that they are satisfied with, even though the distance might not be exactly 500 feet, but adequate measures have been put in place as far as security goes. Application requirements are straightforward for waivers. They would have to follow procedures already existing in the zoning bylaw under special permit application or site plan application. No new procedures are being introduced. Materials for review: they talk about the description of activities taking place, so that the board has an understanding of what exactly will take place on the site. The service area, transportation analysis: this is more to understand what kind of traffic will come to the site and have potential impact on the adjoining residential neighborhood or city streets and ways. Registration materials: we can't evaluate security measures or floor plans, because they are supposed to be not public documents but the applicant can present to the community those plans so that it can be divulged publicly, so that the board and residents understand what security measures have been taken into account and approved by DPH. Local law officials can then require additional requirements on their own to insure that proper safety is insured.

David Frick: What type of security requirements are we talking about?

Nipun Jain: As originally proposed by the Ordinance Committee, it was requested that copies of those documents, security plans, should be included. That is what we're saying. Copies of registration materials issued by the DPH or any materials submitted to DPH for the purpose of seeking registration and to confirm that the information before the Planning Board is the same, be provided. We're not asking them to provide any additional security measures or plans for that. However, as part of the plan approval procedures, that application goes to the police dept and fire dept, so they will have the opportunity to review that information and provide feedback, as far as is that information adequate or not.

David Frick: So, are you saying that the state requirements are enough?

Nipun Jain: No. I'm not saying that. I'm just saying that pursuant to state regulations, it says the applicant has to adhere to all of these measures, including specific sections of the state's statute, which specifically outlines what the applicant has to do, and what standards the applicant has to meet.

David Frick: I just didn't see anything in there, about 24/7 surveillance or not having any landscaping that could act as places someone could hide, something like that. Otherwise, I think what you have is great. I'd just like to see it spelled out is all.

Nipun Jain: OK.I struggled with design and performance standards. It's great feedback. I can certainly include that.

David Frick: Should there be interior and exterior video cameras 24/7, as well as somebody on site?

Nipun Jain: Those are stipulated in the state regulations. You can require that at a minimum, the state regulation requirements be met as far as security measures go. However, it should include

“at least but not limited to” and “as per recommendations of the police dept, further security measures may have to be incorporated.”

David Frick: If you could write something up and include it, I’d be prepared to make a motion that, if we adopt this with that kind of security amendment, I’m pleased with it.

Scott Mandeville: Should the security requirements mirror state requirements? I know that handout we had from DHHS stipulates a number of DPH regulations and mentioning the law enforcement part of it, talks about alarms, hours of operation, different things like that. Should the Planning Board be just repeating that? It’s already in the state regulations. Doesn’t this cover us, seeing we’re part of the state?

David Frick: It probably does, but we didn’t have those in front of us, and I’m not familiar with them, so I thought we should do what Nipun is saying, say “meet the state security regulations, but if those don’t require this or at some point don’t require this, then at some point, we would require this.

Nipun Jain: Re: police, it is here. If you look at 10.01.3, it includes that very specific law enforcement related state statute regulations are going to be included. But what David was saying is, even though that is required in the state regulations, there might be some specific requirements that the local police dept wants incorporated in the security measures. That should come from the police dept and not the Planning Board, but in order for the police dept to request that it be included in any approval, they need us to say that they have that and regulations need to add that. So we’ll close that loop.

David Frick: **Then I’d put forth a motion** to approve this draft zoning amendments to the proposed amendments to Ordinance 2014-003, with the amendment just proposed by Mr. Frick and presented by Nipun Jain. seconded by Robert Laplante. Vote was All in favor.

Nipun Jain: There should also be consideration given to **licensing regulations** to be adopted by the city, because the enforcement aspect of whether it is state or local regulations, is totally missing, and the Planning Board has no jurisdiction on that matter. It rests with the board of health, or city council, or the police dept, but without having any framework by which you can enforce public health issues that relate to fire or flooding in these facilities, for setting up appropriate mechanisms for overseeing hardship cultivation by qualified patients or personal care givers, or hours of operation, or contamination of soils, because of activities taking place in cultivation sites. Those are all within the purview of the board of health or the licensing agency, in this case the city council. There are already those set of regulations available from Mass. Municipal Association, which provide a great framework and are built on the same background and requirements, such as tobacco or liquor sales in a city. So it isn’t something new that has been proposed by MMA, but may be worth considering by the city council, to take those and adopt those for proper enforcement. I did the whole research on what are the things that otherwise would be not subject to any enforcement, if those regulations were not there. So it is something that if the Planning Board wishes to make a recommendation to the city council, should be considered.

Motion to close the hearing on 2014-003 by David Frick. seconded by Lars Johannessen. Vote was All in favor.

MUNICIPAL COUNCIL REFERRAL 2013-131 ZONING AMENDMENT RE: MORATORIUM ON MARIJUANA CULTIVATION.

Motion by David Frick that we continue municipal council referral 2013-131 until our next Planning Board meeting on March 24. seconded by Karen Solstad. unanimous.

ADMINISTRATIVE:

MUNICIPAL COUNCIL REFERRAL BILL 2014-027

ACQUIRE PROPERTY INTEREST RELATIVE TO ROUTE 150 IMPROVEMENT PROJECT AND TO APPROPRIATE FUNDS TO ACQUIRE

Nipun Jain: The intent here is, when an existing way is altered, it needs to be reviewed by the Planning Board to assess if there is any negative impact to abutting properties or to the neighborhood in which that roadway exists, or does it prohibit the safe passage of regular traffic or impacts public safety in any manner. That is the basic premise, when you are laying out a way, it's the same assessment that you do when you are re-aligning an existing way. That is the purpose why it is before you guys. This project has been going on for two years, as far as design. It was at 25% a year ago, 75% last year, and it was just finalized and now the legal work of actually the easements, the takings, the temporaries and permanent easements are being brought to fruition. The council needs to act on it. These specific action items have been identified as items that the council should take action on, and as part of their proceedings, the matter has been referred to you.

Karen Solstad: I looked at the cover sheet, to raise an appropriated transfer from available funds the amount of \$413,000. Then there is a letter from Rob Desmarais that says in a revised Order of Taking with a corrected total of the appraised damages amounts to \$94,000. There is a \$319,070 difference. And there is one property on here that has a \$319,000 interest taken in one small piece of land. All the others are like \$500, \$300, etc. So what does \$300,000...

Nipun Jain: As I said, I can find that information for you, but I want to say this matter must have been discussed at the finance committee...

Karen Solstad: I can't figure out, between \$400,000 and \$90,000, that's a big amount of money, and when that big amount of money suddenly shows up on one property owner, when everybody else is getting \$300 - \$400, etc. and maybe \$1000, but suddenly one property owner is getting what looks like \$319,000.

Nipun Jain: Is this a matter that the Planning Board wishes to...

Robert Laplante: It's a procedural question. These are municipal council referrals. I assume all of this work was authorized by the Municipal council.

Nipun Jain: No. The work...

Robert Laplante: What I see here is, the Planning Board is blessing these easements, acquisition of property interests and so forth, altering the layouts, altering the plans, so I assume they went through the DPW?

Nipun Jain: They did. They also went through MassDOT.

Robert Laplante: And they were funded by the state, and they have all the different procedures?

Nipun Jain: They do have all the procedures.

Robert Laplante: So what exactly is the role of the Planning Board in this? I'm sure it's not to adjudicate the amount of money that is being quoted.

Nipun Jain: No, it is not. It is under Chapter 41 Section 81I that when a way is being altered, there may be rights prescribed to adjoining properties. Are those rights in any way being encumbered by their alteration? That is one thing to find out. It is more pertinent if you have abutters. Whose property is actually being taken, or easements are being taken? If they are

concerned about that, it is more of an issue. The only other aspect would be for the Planning Board, if any part of the way is being abandoned, is it creating a situation where access may be denied, and has that been overlooked? Or is it an ancient way that has some significance for the residents of that neighborhood? Those are the only aspects, in my opinion, that the Planning Board would be looking at.

Ted Semesnyei: The point is that we don't have any way to make that determination tonight because we don't have that information in front of us. So what we need to do is to request the additional information to be able to make that determination of what you just laid out.

Robert Laplante: I'd also suggest that we get a staff recommendation from DPW.

Lars Johannessen: I sat on the Historic Commission when this first came up about 6 or 7 years ago. At this point, we don't know what they are doing, because, I only saw the 10% of the design at that point. There is also a section at the proposed from Mass Highway at the time, was to remove part of a street, which is a historic road from early settlers, and turn that into green grass and give it to the guy next door, as far as I know, because that's what the law says you have to do when you get rid of a road, that you turn it into private property in the re-alignment phases. So we don't know what the re-alignments are at this point.

Nipun Jain: We'll give you the plans. You will know what those plans are. They cannot be changed, because they are at 100% design. This is now going to bid. Before the bid, these steps have to be taken: the city has to have secured the easements and taken care of all of the land acquisitions or disposals as the case may be, in order to build the way. So it's not a matter of whether they can change or not...no, that is done. The plans are final.

I can provide a copy of the plans to the board, and if there is feedback as far as how the city incorporating any of the changes that would not effect the project, then so be it. But other than that, you would not be able to change the layout.

Ted Semesnyei: So do we need to make a motion to request that information, or do we just...

Nipun Jain: You have two options: 1. If there is a positive recommendation from DPW, to move forward on this project and there are no private property interests that are being unduly taken, then this project should move forward, or 2. If you wish to review the plans and make that recommendation at the next meeting, then that is the second choice.

David Frick: Do you think we're holding anything up if we held this off 2 weeks?

Nipun Jain: I'm not involved in this project, David.

Scott Mandeville: It sounds to me like even if there was a public interest conflict, that it is beyond the point of ... if this is 100% and they are starting, but it doesn't sound like we're being given any choice or overview, we're just being asked to check a box off so they can follow through with...

Nipun Jain: It's a procedural purpose.

Lars Johannessen: I just don't even know if these people have been notified about this.

Nipun Jain: They have to be. This would not be this far along. You cannot present the legal documents that are in that package until easements have been properly created, the affected property owners notified, and consent from that property owner for grant of those easements or taking of those temporary easements. My suggestion to you would be as a board, you should send a positive recommendation to the council, and if as concerned citizens you wish to say anything, the hearing will be tomorrow, you can speak on it.

Karen Solstad: I, as a board member, couldn't vote for anything on this, couldn't even make any recommendations, because I look at these two numbers: \$413,000 and \$94,000 and...

Robert Laplante: I don't think they're asking us to approve numbers.

Karen Solstad: No, but when I see that huge discrepancy in numbers, I would have to say I wouldn't want to touch this with a ten foot pole.

Ted Semesnyei: But again, it is a procedural issue, and it seems to me, as a Planning Board, we just don't have the information to officially say...

Motion by Scott Mandeville that, in the absence of supporting documents and any sort of plan outlining this from which the Planning Board would be able to make a recommendation, we continue this until such time as those documents are available. We're in need of site plans of some sort that would outline where these easements and changes of property are. So, 2014-027, 2014-028 and 2014-029 to be continued to March 24 meeting.

David Frick: Or someone can explain to us what is going on.

Scott Mandeville: Right. If we're asked about easements and the impact of all this, I don't see any document showing me easements. Until I have something like that, I don't think we can a decision.

Ted Semesnyei: I can't imagine a two week continuance for this small part of the plan shouldn't blow up the project.

David Frick: 2014-026 is not related, and we should take that separately. It has to do with the firehouse.

Scott Mandeville's motion to continue this to the March 24 meeting was seconded by Lars Johannessen. Vote was All in favor with David Frick abstaining.

MUNICIPAL COUNCIL REFERRAL BILL 2014-028 INTENT TO ALTER THE LAYOUT OF HILLSIDE AND SPARHAWK STREETS

Vote to continue to March 24, included in the 2014-027 motion write up.

MUNICIPAL COUNCIL REFERRAL BILL 2014-029

ALTER THE LAYOUT OF HILLSIDE AND SPARHAWK STREETS

Vote to continue to March 24, included in motion in the 2014-027 write up.

MUNICIPAL COUNCIL REFERRAL BILL 2014-026

GRANT EASEMENT TO NATIONAL GRID AT 17 SCHOOL STREET

Motion by David Frick to approve 2014-026. seconded by Scott Mandeville. unanimous.

Motion by Scott Mandeville to continue this meeting past 9:30 P.M. seconded by Karen Solstad. All in favor.

AMESBURY CULTURAL CENTER – 36 HIGH STREET

Nipun Jain: 36 High Street is the cultural center. It is intended by city council to surplus this property and put to auction by the city. It is the intent of our office to get a clear understanding whether the Planning Board in the future would entertain converting that space into two residential units or more. It is a public space currently used by the residents of Amesbury, but there is a condo fee that is being paid for its use by the city, which is substantial. That is the burden that the city wishes to free itself of. A question is: how would the sale of that effect that commitment to the grantor of that grant, parking spaces would be an issue, it would have to be handicap accessible, etc. From a land use perspective, would the board see any issues with the conversion of that space into residential units? Be aware that the property is located in the downtown artists district and it received a special permit to allow artists to use, and that is what

the cultural space was for. It served a purpose. It is under-utilized and lacks a proper management plan.

We need more information if the housing is considered, and it should be affordable housing.

Robert Laplante: I would suggest that the cultural council also be included in any discussion. It is under-utilized, but it is utilized by a number of other groups from time to time, and also serves as a storehouse for cultural council's art collection, etc. I'm sure they'd like input. We should have access to the original grant. Legally, that is a significant point.

Ted Semesnyei: There should be more discussion on this and we should have open dialogue with the community, cultural committee, and encourage municipal council or whoever is taking the lead to have a plan in place and the Planning Board is here to assist.

Nipun Jain: This originated from our office. I'll seek input from stake holders.

37 MIDDLE ROAD (EASTERN LIGHTS) ENDORSEMENT OF PLANS (PENDING)

Nipun Jain: The developer is dragging his feet. We still need more information. This is a 6 lot subdivision that has been there for over 2 decades.

Robert Laplante: *Motion to direct Nipun Jain to send a letter to the representatives of 37 Middle Road asking for more information, seconded by Howard Dalton. unanimous.*

Motion to adjourn was made by Scott Mandeville, seconded by Karen Solstad. unanimous.

Meeting was adjourned at 9:55 P.M.